## REMARKS/ARGUMENTS

Claims 1, 3, 4, 6, 7, and 9-20 are pending. The claims have been amended for clarity and consistency with U.S. practice. The term "breathable pad" appearing in Claims 1 and 16 finds support on page 1, line 5, of the specification. New Claims 16-20 also find support in original Claim 1 and on page 3 of the specification. No new matter has been added.

## Rejection—35 U.S.C. §103

Claims 1, 3, 4, 6, 7, and 9-15 were rejected under 35 U.S.C. 103(a) as being unpatentable over Kundel, U.S. Patent No. 5,480,717, in view of Mershon, U.S. Application Publication No. 2003/0008011. The cited art does not render the present invention obvious, because it does not disclose or suggest a breathable pad comprising a flexible support and the gel of the present invention.

Kundel is directed to laminated bandages comprising a base substrate which preferably consists of a **moisture-impermeable** thermoplastic **film** (see the passage bridging columns 4 and 5) **having a polymeric adhesive coating onto it** (see col. 5, lines 4-5; and elsewhere throughout all the specification and especially Claim 1) **the hydrogel being placed or cast onto the adhesive-coated surface of the substrate** (see, for example col. 5, lines 24-29).

While Kundel, col. 5, line 64, describes a "porous or mesh-like layers about which the hydrogel polymerizes", it does not envisage or suggest that the products be breathable. The porous or mesh-like layers described in col. 5 are merely "reinforcing materials" which "may be incorporated" into the hydrogel layer for the purpose of strengthening the laminate.

Moreover, Kundel specifically indicates that "it is generally preferred that the substrate include a moisture-impermeable thermoplastic film" (emphasis added, col. 4, line 67-col. 5, line 1) as the substrate. Even if the Kundel products comprise other types of

substrates, there is no suggestion to configure or polymerize the elements to be breathable, and Kundel teaches away from breathable products by indicating that it is preferred that the substrate be moisture impermeable and that a polymeric adhesive be coated on the substrate. Thus, Kundel does not teach the elements of the present invention with sufficient specificity to anticipated it, nor does it suggest or provide a reasonable expectation of success for the breathable products of the present invention.

Mershon does not complement the elements missing from the primary reference. Moreover, while Mershon is cited as disclosing the tetraborate, if polyvinyl alcohol is not present in the gel, the tetraborate is useless, see e.g., Example 4 on page 10, lines 15-17 of the specification which indicates that the polymerization may be attained by UV rays.

On the other hand, the present invention requires a pad comprising a thin flexible support one surface of which is covered by a layer of semi-solid gel able to develop a decongestant, cosmetic and/or therapeutic action (see, for example, the first three lines of the specification). Unlike the prior art products, the gel pad of the invention comprises a **flexible support** which is **porous** (see, for example, line 2 of original Claim 1; lines 11-12 of page 2; line 3 of page 3; etc.). That is, the porous support permits the pad of the invention to be breathable as described on page 1 of the specification.

The effect of the porosity of the flexible support is highlighted at many places in the specification and is also explained on page 4, lines 7-24:

> Due to the warmth of the human skin to which the gel, spread in to the patch, is applied, the water begins to evaporate from the free surface of the gel, so causing cooling (cryogenic effect) of that part of the skin on which the gel is applied. **Evaporation of the water causes** molecules of aromatic substances (for example essential oils) which are possibly present in the gel to be drawn outwards with consequent **controlled release of aromatic and/or balsamic vapours**.....As the gel is spread onto a flexible support.....**such porosity determines the rate** (i.e., the duration in time) of **water evaporation, thus enabling control of the rate or duration of transfer of cosmetic and pharmacological substances contained in the gel from the gel to the skin** (emphasis added).

Furthermore, the cited art does not disclose or suggest the gel required by new Claim 16 which must contain 5-10% of a substance of plant origin and/or 5-10% of the other functionally described substances. Accordingly, the Applicants respectfully request that this rejection now be withdrawn.

## CONCLUSION

In view of the above amendments and remarks, the Applicants respectfully submit that this application is now in condition for allowance. Early notification to that effect is earnestly requested.

Respectfully submitted,

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